

2009 DRAFTING REQUEST

Bill

Received: **08/20/2009**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Jim Holperin (608) 266-2509**

By/Representing: **John Stolzenberg**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - wet/shore/flood**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Holperin@legis.wisconsin.gov**

Carbon copy (CC:) to: **john.stolzenberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Shoreland zoning exemption for commercial areas

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rkite 08/24/2009	jdye 08/24/2009	rschluet 08/24/2009	_____	lparisi 08/24/2009		S&L
/P2	rkite 08/26/2009	jdye 08/27/2009	rschluet 08/27/2009	_____	lparisi 08/27/2009		S&L
/1	rkite 09/15/2009	jdye 09/15/2009	jfrantze 09/15/2009	_____	sbasford 09/15/2009	cduerst 09/16/2009	

FE Sent For: "1" @ intro. 9/23/09

<END>

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/P1	rkite 08/24/2009	jdye 08/24/2009	rschluet 08/24/2009	_____	lparisi 08/24/2009		S&L
/P2	rkite 08/26/2009	jdye 08/27/2009	rschluet 08/27/2009	_____	lparisi 08/27/2009		

9/15

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/?		<i>P2 8/27 JLD</i>					
/P1	rkite 08/24/2009	jdyer 08/24/2009	rschluet 08/24/2009		lparisi 08/24/2009		

FE Sent For:

[Handwritten signature]
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/?

rkite

PI 8/24/09



FE Sent For:

<END>

Kite, Robin

From: Stolzenberg, John
Sent: Thursday, August 20, 2009 1:46 PM
To: Kite, Robin
Subject: Drafting request for Sen. Holperin

Robin,

Here's the start of a draft for Sen. Holperin relating to an exemption from shorelands zoning that we discussed earlier today.

I'll come down to your office shortly to discuss it with you.

John

John Stolzenberg
Legislative Council
266-2988

%%%%%%%%%

SECTION 1. 59.692 (1) (am) cr.

59.692 (1) (am) "Downtown shorelands district" means an area of the state that meets all of the following criteria:

1. Is located in shorelands.
2. Is located in an unincorporated area on the effective date of this provision {LRB insert date}.
3. Is ^{entirely} zoned for commercial use.
4. Has been used [for at least 20 years] [since at least January 1, 1990] principally for retail and commercial trade and services provided by small businesses.
5. Has cross streets that are paved. ^{or} all streets are paved
6. Has sewer and water service.
7. Meets any other criteria identified by DNR by rule.

SECTION 2. 59.692 (1m) am.

59.692 (1m) To effect the purposes of s. 281.31 and to promote the public health, safety and general welfare, each county shall zone by ordinance all shorelands in its unincorporated area, except as provided in sub. (1p). This ordinance may be enacted separately from ordinances enacted under s. 59.69.

SECTION 3. 59.692 (1p) cr.

59.692 (1p) (a) An ordinance adopted under sub. (1m) [may] [shall] not apply to a downtown shoreland district

identified under par. (b).

(b) A county shall identify in its ordinance adopted under sub. (1m) the downtown shoreland districts in the county.

SECTION 4. 59.692 (6) am.

59.692 (6) If a county does not enact an ordinance by January 1, 1968, or if the department, after notice and hearing, determines that a county has enacted an ordinance that fails to meet the shoreland zoning standards or identifies an area as a downtown shoreland district that does not meet the definition of a downtown shorelands district, the department shall adopt such an ordinance for the county. As far as possible, s. 87.30 shall apply to this subsection.

NONSTATUTORY PROVISION. (1) Emergency rules. The department of natural resources may use the procedure under section 227.24 of the statutes to promulgate rules under section 59.692 (1) (am) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until the permanent rules take effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

*Per John S. -
Do not include
this provision*



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

x Gen

1 AN ACT ...; relating to: the application of shoreland zoning ordinances to certain
2 unincorporated areas. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 59.692 (1m) ^x of the statutes is renumbered 59.692 (1m) (a) and
4 amended to read:
5 59.692 (1m) (a) [✓] To effect the purposes of s. 281.31 and to promote the public
6 health, safety and general welfare, each county shall zone by ordinance all
7 shorelands in its unincorporated area, except as provided in par. (b). [✓] This ordinance
8 may be enacted separately from ordinances enacted under s. 59.69. Each county
9 shall include a provision in the ordinance that identifies those areas described in par. [✓]
10 (b) to which the ordinance does not apply.

or adopted by the department under sub. (b) ✓

1 SECTION 2. 59.692 (1m) (b) ✓ of the statutes is created to read:

2 59.692 (1m) (b) A shoreland zoning ordinance ✓
3 shorelands in an unincorporated area of a county if all of the following apply ✓ to that
4 area:

5 1. The area is zoned by a city or village exclusively for business, industrial, or
6 commercial use. ✓

7 2. The majority of the buildings and structures in the area have been used since
8 January 1, 1990 ✓ until the effective date of this subdivision [LRB inserts date] ✓ to
9 conduct the affairs of small businesses, as defined in s. 227.114 (1). ✓

10 3. All of the roads in the area are paved. ✓

11 4. The area receives public water and sewer service. ✓

12 5. The area meets all other requirements that the department specifies by rule. ✓

13 SECTION 3. 59.692 (1m) (c) ✓ of the statutes is created to read:

14 59.692 (1m) (c) If the department, after notice and hearing, determines that
15 an area identified in an ordinance under par. (a) ✓ does not meet the requirements
16 specified in par. (b) 1. to 5. ✓ for exclusion from the ordinance, the ordinance shall apply
17 to the identified area.

18 SECTION 4. 59.692 (6) of the statutes is amended to read:

19 59.692 (6) If a county does not enact an ordinance by January 1, 1968, or if the
20 department, after notice and hearing, determines that a county has enacted an
21 ordinance that fails to meet the shoreland zoning standards, the department shall
22 adopt such an ordinance for the county. Subsection (1m) (b) applies to an ordinance

~~adopted by the department for a county under this subsection. As far as possible, s.
87.30 shall apply to this subsection.~~

~~History: 1979 c. 233; 1981 c. 330; 1983 a. 189 s. 329 (23); 1991 a. 39; 1993 a. 329; 1995 a. 201 s. 476; Stats. 1995 s. 59.692; 1995 a. 227; 1997 a. 27, 35, 252; 1999 a. 9; 1999 a. 150 s. 672; 2005 a. 112.~~

SECTION 5. 289.35 of the statutes is amended to read:

289.35 Shoreland and floodplain zoning. Solid waste facilities are prohibited within areas under the jurisdiction of shoreland and floodplain zoning regulations adopted under ss. 59.692, 61.351, 62.231 and 87.30, except for areas exempt under s. 59.69³(1m) (b), and except that the department may issue permits authorizing facilities in such areas.

History: 1981 c. 374 s. 148; 1983 a. 416 s. 19; 1995 a. 201; 1995 a. 227 s. 638; Stats. 1995 s. 289.35.

(END)

d-note
↓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

date

PI
LRB-3308/dn

RNK:.....
Jld

Please review this preliminary draft closely to ensure that it meets your intent. In particular, please note that the draft cross-references the definition of "small business" in s. 227.114 (1). Is this definition O.K.?

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3308/P1dn
RNK:jld:rs

August 24, 2009

Please review this preliminary draft closely to ensure that it meets your intent. In particular, please note that the draft cross-references the definition of "small business" in s. 227.114 (1). Is this definition O.K.?

Please feel free to contact me if you have any questions with regard to this draft.

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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

8/26

Per John Stolzenberg -

Redraft to eliminate subd. 1 on pg 2

Redraft as P/2 w/ analysis

needs before Sept. 3 hearing date



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

X Regen

- 1 AN ACT *to renumber and amend* 59.692 (1m); *to amend* 289.35; and *to create*
2 59.692 (1m) (b) and 59.692 (1m) (c) of the statutes; **relating to:** the application
3 of shoreland zoning ordinances to certain unincorporated areas. ✓

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 59.692 (1m) of the statutes is renumbered 59.692 (1m) (a) and
5 amended to read:
6 59.692 (1m) (a) To effect the purposes of s. 281.31 and to promote the public
7 health, safety and general welfare, each county shall zone by ordinance all
8 shorelands in its unincorporated area, except as provided in par. (b). ✓ This ordinance
9 may be enacted separately from ordinances enacted under s. 59.69. Each county
10 shall include a provision in the ordinance that identifies those areas described in par.
11 (b) to which the ordinance does not apply.

1 **SECTION 2.** 59.692 (1m) (b) of the statutes is created to read:

2 59.692 (1m) (b) A shoreland zoning ordinance enacted by a county under par.
3 (a) or adopted by the department under sub. (6) does not apply to shorelands in an
4 unincorporated area of a county if all of the following apply to that area:

5 1. The area is zoned by a city or village exclusively for business, industrial, or
6 commercial use.

7 4 2. The majority of the buildings and structures in the area have been used since
8 January 1, 1990, until the effective date of this subdivision ✓... [LRB inserts date], to
9 conduct the affairs of small businesses, as defined in s. 227.114 (1).

10 4 3. All of the roads in the area are paved.

11 4 3. The area receives public water and sewer service.

12 4 4. The area meets all other requirements that the department specifies by rule.

13 **SECTION 3.** 59.692 (1m) (c) of the statutes is created to read:

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16 specified in par. (b) 1. to 5 ✓ 4. for exclusion from the ordinance, the ordinance shall apply
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18 **SECTION 4.** 289.35 of the statutes is amended to read:

19 **289.35 Shoreland and floodplain zoning.** Solid waste facilities are
20 prohibited within areas under the jurisdiction of shoreland and floodplain zoning
21 regulations adopted under ss. 59.692, 61.351, 62.231 and 87.30, except for areas
22 exempt under s. 59.692 (1m) (b), ✓ and except that the department may issue permits
23 authorizing facilities in such areas.

24 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3308/P2ins.
RNK:.....

Insert Analysis

Under current law, a county must enact a shoreland zoning ordinance for shorelands in its unincorporated area. Current law defines a shoreland to be an area within a certain distance from the edge of a navigable water. If a county does not enact a shoreland zoning ordinance or if the Department of Natural Resources (DNR) determines that the county has enacted an ordinance that fails to meet certain standards, then DNR must adopt a shoreland zoning ordinance for the county. as *

This bill provides that a county shoreland zoning ordinance enacted by a county or adopted by DNR for a county does not apply to areas meeting certain criteria. Under the bill, a shoreland zoning ordinance does not apply if the majority of the buildings and structures in the area have been used since January 1, 1990 to conduct the affairs of small business, if all the roads in the area are paved, if the area receives public water and sewer service, and if the area meets all other requirements specified by DNR by rule. The bill requires that every county that enacts a shoreland zoning ordinance include a provision in the ordinance that identifies areas that are exempt from the ordinance based on the specified criteria. The bill provides that if DNR determines, after notice and hearing, that an area identified in an ordinance as exempt does not meet the specified criteria for exemption, the ordinance applies to that area. *

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

(end insert Analysis)



Soon
State of Wisconsin
2009 - 2010 LEGISLATURE

RM run
1
LRB-3308/P2
RNK:jld:rs

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2009 BILL

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2 59.692 (1m) (b) and 59.692 (1m) (c) of the statutes; **relating to:** the application
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This bill provides that a county shoreland zoning ordinance enacted by a county or adopted by DNR for a county does not apply to areas meeting certain criteria. Under the bill, a shoreland zoning ordinance does not apply if the majority of the buildings and structures in the area have been used since January 1, 1990, to conduct the affairs of small business, if all of the roads in the area are paved, if the area receives public water and sewer service, and if the area meets all other requirements specified by DNR by rule. The bill requires that every county that enacts a shoreland zoning ordinance include a provision in the ordinance that identifies areas that are exempt from the ordinance based on the specified criteria. The bill provides that, if DNR determines, after notice and hearing, that an area identified in an ordinance as exempt does not meet the specified criteria for exemption, the ordinance applies to that area.

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14 January 1, 1990, until the effective date of this subdivision [LRB inserts date], to
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8 authorizing facilities in such areas.

9 (END)

Parisi, Lori

From: Meinholz, Susan
Sent: Wednesday, September 16, 2009 9:19 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3308/1 Topic: Shoreland zoning exemption for commercial areas

Please Jacket LRB 09-3308/1 for the SENATE.